

The 1st October, 1985.

No. 9/5/84-Lab./7905.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the Workman and the management of M/s. Saz International Pvt. Ltd. D.L.F. Area, Plot No. 46—49, Faridabad.

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT,
FARIDABAD.

Reference No. 127 of 1983

between

SHRI A. K. KUSHWA, WORKMAN AND
THE RESPONDENT MANAGEMENT OF
M/S. SAZ INTERNATIONAL PVT. LTD.,
D.L.F. AREA, PLOT NO. 46—49, FARIDABAD.

Present:—

Shri R. N. Roy, for the workman.

Shri J. S. Saroha, for the respondent
management.

AWARD

This Industrial dispute between the workman Shri A. K. Kushwa, and the respondent-management of M/s. Saz International Pvt. Ltd., D.L.F. Area, Plot No. 46—49, Faridabad has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/31/83/13782-87, dated 23rd March, 1983 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri A. K. Kushwa was justified and in order? If not to what relief is he entitled?

According to the demand notice, the claimant was appointed on 6th September, 1980 and his services were terminated on 1st November, 1982 on verbal order. No compliance under Section 25-F of the Industrial Disputes Act was done. It is alleged that the order of dismissal is illegal and unjustified. The workman has claimed reinstatement with continuity of service and with full back wages. It is further alleged

that the matter was referred to the Labour-Cum-Conciliation Officer, but no conciliation could be arrived at. The management came out with the plea that the workman was absent from duty and he should report for duty. The workman reported for duty on 27th January, 1983 and then on 28th January, 1983 and again on 6th February, 1983 but he was not allowed to join duty. The matter was taken up by the Deputy Labour Commissioner on 14th February, 1983 but none appeared for the management.

The claim of the workman has been contested by the management. It is alleged that the management is already willing to recall the workman on duty. It is further alleged that he joined on 6th September, 1980 and was paid off on 6th February, 1981 because there were some temporary work. He was not employed from 6th February, 1980 to 14th July, 1981 and from 11th January, 1982 to 17th February, 1982 and again from 17th May, 1982 to 21st June, 1982. He again approached the management for job on 22nd June, 1982 and he was engaged as Tailor to work till 31st October, 1982. In the written statement the management has also offered duty but the workman was adamant that he should be paid full wages for the period of absence.

Rejoinder has been filed denying the above said averments. It is admitted that the workman was taken on duty on 28th September, 1984. The reference was contested on the following issues:—

1. Whether the reference is pre-mature and bad?
2. As per reference?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under:—

ISSUE NO. I & II:—

It is contended that the workman has never been dismissed from the service. Rather he has himself absented from duty. Hence the reference is bad. Order of Government is premature that the services of the workman were not terminated whereas the management has pleaded that the workman himself absented and his services were never terminated by the management. There is no reference to the

effect that the workman absented from duty. Hence the reference is bad in law, in view of the judgement of Hon'ble Bombay High Court in *Sitaram Vishnu Shirodkar vs. The Administrator, Government of Goa and others*; 1985-LLJ page 480 and Hon'ble Delhi High Court in *M/s. India Tourism Development Corporation New Delhi vs. Delhi Administration, Delhi and others* 1982-LIC page 1309.

On the facts the management has contended that the workman was not dismissed from service. They had been pleading before the Labour Officer that they had not terminated the services of the workman but the workman was adamant not to join duty as he wants his back wages. Written Comments Exhibit M-1 was filed before the Labour Officer. The report of the Conciliation Officer is Exhibit M-3. The letter was given to the representative of the workman which is Exhibit M-4. It is alleged that the workman never reported for duty it is further contended that,—vide appointment letter Exhibit M-5 and application for employment of the workman Exhibit M-6, the workman was appointed only on 22nd June, 1982 upto 31st December, 1982. Previously he was not on duty from 17th May, 1982 to 21st June, 1982. It is contended that he was appointed afresh on 22nd June, 1982 and he did not join duty after 1st November, 1982 of his own. It is contended that in view of this appointment letter the workman had not completed 240 days of service and provisions of Section 25-F of the I.D. Act were not applicable. It is alleged that the nature of job was temporary. The workman was not in continuance service and there was gap from 6th February, 1981 to 14th February, 1981, 11th January, 1982 to 17th February, 1982 and from 17th May, 1982 to 21st June, 1982. The previous termination was not challenged before us. Only terminated on 22nd June, 1982 has been challenged. It is alleged that it is unfair labour practice that the workman was dismissed from service for small period and the services of the workman should be treated as continuance service since 6th September, 1980 as the interruption was not due to fault of the workman. This contention of the representative of the workman has no force because the workman remained dismissed from 6th February, 1981 to 14th July, 1981, and from 11th January, 1982 to 17th February, 1982 and again from 17th May, 1982 to 21st June, 1982. These dismissals have not been ever challenged

by the workman. He has admitted the appointment letter Exhibit M-5 and application for employment Exhibit M-6. He has challenged the termination only of 1st November, 1982. This clearly shows that the workman was appointed on 22nd June, 1982 and at the time of termination he had not completed 240 days of service and section 25-F of the I.D. Act does not apply. Even if his services is considered to be terminated in that case also the termination was not illegal and unjustified as he had not completed 240 days of service. Hence he is not entitled to any relief. The award is given accordingly. Dated : 24th August, 1985.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 2594, dated 4th September, 1985

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the I.D. Act.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

No. 9/5/84/6Lab./7907.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Mukhsan Engg. Company, Mehauli Road, Gurgaon:—

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT,
FARIDABAD.

References No. 132/84, 131/84 and 151 of 1984,

between

S/SHRI BHU DEV SHARMA, RAGHUBIR SINGH, AND H. B. SINGH, WORKMEN, AND THE RESPONDENT MANAGEMENT OF M/S. MUKHSAN ENGG. COMPANY, MEHAULI ROAD, GURGAON.

Present:—

Shri Mahabir Tyagi, for the workmen.

Shri M. P. Gupta, for the respondent management.

AWARD

The industrial dispute between the workman Shri Bhu Dev Sharma and the respondent management of M/s. Mukhsan Engg. Company, Mehrauli Road, Gurgaon has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/63-84/22382-87, dated 4th June, 1984 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Bhu Dev Sharma was justified and in order? If not to what relief is he entitled?

The industrial dispute between the workman Shri Raghubir Singh and the respondent management of M/s. Mukhsan Engg. Company, Mehrauli Road, Gurgaon has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/65-84/22375-80, dated 4th June, 1984 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Raghubir Singh was justified and in order? If not to what relief is he entitled?

The industrial dispute between the workman Shri H. B. Singh, and the respondent management of M/s. Mukhsan Engg. Company, Mehrauli Road, Gurgaon has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/65-84/25646-51, dated 23rd July, 1984 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri H. B. Singh was justified and in order? If not to what relief is he entitled?

All the references were consolidated,—vide my order dated 1st March, 1985 as common question of law and facts was involved in all these three references.

According to the demand notice, the services of the workmen were terminated with effect from 30th November, 1983 without any notice and without compliance of Section 25-F of the Industrial Disputes Act, 1947.

These claims have been contested by the management. It is contended that the factory was closed with effect from 1st December, 1983. Hence the services of the workmen were terminated after closure of the factory. It is alleged that less than 15 workmen worked before the closure and hence no closure notice was required. The services of the workman were terminated with effect from 30th November, 1983 by the closure of the factory. The factory was closed due to non-availability of orders and the factory is still lying closed.

The references were contested on the following issues:—

1. As per reference ?
2. Whether the factory has been closed ?
If so, its effect?

Both the issues are inter-connected and decided together. I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under:—

ISSUE NO. I & II:

The management has examined MW-1 Shri Mukesh Aggarwal, who was manager of the respondent factory. He has stated that the factory has been closed with effect from 1st December, 1983. A notice was fixed at the factory gate which is Exhibit M-1. Copy was also sent to the Labour Office and all the workmen were informed. Prior information was also pasted on the notice board copy of which is Exhibit M-2. At that time 5/6 workmen were working. His services were also terminated with effect from 1st December, 1983. He has further stated that the factory is still lying closed. It is stated by WW-1 Shri Bhu Dev that the factory is still closed and WW-2 has stated that the factory was closed on 30th November, 1983. In view of the fact, it is proved that the factory is closed since 1st December, 1983 and the services were terminated on 30th November, 1983 due to the closure of the factory. No compensation was required to be paid at the time of closure of the factory. It was decided by the full bench of our own High Court in *Sunder Singh vs. Beas Construction Board*, AIR-1979-Page I that in cases falling under Section 25-FFF payment of retrenchment is not condition precedent. The retrenchment compensation is not to be

paid along with discharge notice. No notice of 60 days was required to be served by the respondent to the Government Section 25-FFA of the Industrial Disputes Act is not applicable as there were already less than 50 workmen. There were only 5/6 workmen were working at the time of closure of the factory as admitted by the workmen. In these circumstances, I find that the order of termination of the services of the workmen was legal and justified and the workmen are not entitled to any relief.

The award in all the three references is given accordingly.

Dated the 23rd August, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 2593, dated 4th September, 1985.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the I.D. Act.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

The 4th October, 1985.

No. 9/5/84-6Lab/8150.—In pursuence of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of Haryana Roadways, Kaithal (Haryana).

IN THE COURT OF SHRI V. P. CHAUDHARY,
PRESIDING OFFICER, LABOUR COURT,
AMBALA.

Reference No. 169 of 1984
(Old No. 265 of 1982)

SHRI SAT PAL WORKMAN AND THE
MANAGEMENT OF HARYANA ROADWAYS,
KAITHAL (HARYANA).

Present:

Shri Rajeshwar Nath for workman.
Shri A. R. Goyal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute between Shri Sat Pal workman and the management of Messrs Haryana Roadways, Kaithal to Labour Court, Faridabad. The terms of the reference is are under:—

"Whether the termination of services of Shri Sat Pal workman was justified and in order? If not, to what relief is he entitled to?"

On constitution of Labour Court at Ambala the reference was received by transfer.

Workman Sat Pal alleged that he served the respondent management as a Sweeper for 6 years from 1976 to 27th April, 1982. His services were terminated by the respondent management in contravention of Section 25(f) of the Industrial Disputes Act, 1947. He has prayed for reinstatement with continuity in service with full back wages.

Respondent contested the case and contending that workman was appointed as a Sweeper on daily wages. His services were discontinued when daily wages candidates posts were abolished by the Head of Department. Workman is not entitled to relief claimed for.

On the pleadings of the parties the following issues have been framed:

ISSUES:

1. Whether the termination order dated 27th April, 1982 is according to law as per reference regarding the services of workman if not its effect? OPR
2. Relief.

I have heard authorised representatives of the parties and have perused the evidence available on the file. My issuewise findings are as under:

ISSUE NO. 1:

In support of this issue Shri Omr Parkash Clerk, Haryana Roadways, Kaithal stated that workman was employed on daily wages. His services were terminated when post of daily wagers was abolished by the State Transport Commissioner, Haryana. Certain Sweepers were recruited through Employment exchange. He

stated that the workman was not given any wages. I pass my award regarding the dispute notice or any retrenchment compensation at the accordingly. time of discontinuing of his service.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court,
Ambala.

Workman also supported his case as the facts re-produced above.

In view of admission statement of Shri Om Parkash clerk that before dis-continuing the services of Shri Sat Pal workman no notice; no pay in lieu of notice period and no retrenchment compensation was paid to him, so order dated 27th April, 1982 is illegal and un-just and not binding on the workman. Hence this issue is decided in favour of workman and against the respondent, management.

Dated, 13th August, 1985

Endorsement No. 1868, dated, Ambala City, the 13th August, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Deptts., Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

ISSUE NO. 2

On the basis of my findings on issue No. 1. I hold that the workman is entitled to re-instate-ment with continuity in service with full back

V. P. CHAUDHARY,
Presiding Officer,
Labour Court,
Ambala.

No. 9/5/84-6Lab./9226.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the Workman and the management of (i) The Rohtak Central Co-operative Consumers Store Ltd., Rohtak, (ii) Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd., Chandigarh

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 64 of 78.

Between

SHRI KRISHAN KUMAR, WORKMAN AND THE MANAGEMENT OF THE ROHTAK CENTRAL CO-OPERATIVE CONSUMER'S STORE LTD., ROHTAK. (ii) HARYANA STATE FEDERATION OF CONSUMERS CO-OPERATIVE WHOLESALE STORES LTD., CHANDIGARH.

Present.—

Shri S.S. Gupta, A.R. for the workman.
Shri K.L. Nagpal, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Krishan Kumar and the management of The Rohtak Central Co-operative Consumer's Store Ltd, Rohtak, (ii) Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd., Chandigarh, to this Court, for adjudication, —vide Labour Department Gazette Notification No. ID/RTK/637/77/17416, dated 4th May, 1978 :—

Whether the termination of service of Shri Krishan Kumar was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent as a Clerk on 25th December, 1970, but his services were unlawfully terminated by the respondent on 8th April, 1975 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act.)

3. Originally only the Rohtak Central Co-operative Consumer's Stores Ltd., Rohtak was arrayed as respondent in the order of reference, but later on, on an application filed by this respondent dated 6th April, 1983 Haryana State Federation of Consumer's Co-operative Wholesale Stores Ltd., Chandigarh was also impleaded as respondent No. 2 in the present case.

4. Both the respondents have filed separate replies but the refrain of the same is that the applicant is not a workman as defined in section 2(s) of the said Act, because he was working in the capacity of Salesman and that the present claim is barred by limitations and the petitioner is estopped for filing the same by his acts and conduct. On merits, the claim of the workman has been controverted. In toto *Inter alia*, it is alleged that there was shortage of goods worth more than Rs. 10,000 in the custody of the petitioner and this fact weighed in the mind of the competent authority, who passed the order of termination. Lastly it is alleged that the workman remained gainfully employed after his termination.

5. On the pleadings of the parties, the following issues were settled for decision on 3rd April, 1979 :—

1. Whether the workman is covered by the definition of workman under section 2(s) of the Industrial Disputes Act, 1947 ?
2. Whether the termination of service of Shri Krishan Kumar was justified and in order ? If not, to what relief is he entitled ?

6. My learned predecessor — *vide* his order dated 31st October, 1979 directed that issue No. 1 regarding the petitioner being a "workman" be tried as preliminary issue. Upon this issue both the parties were allowed to adduce their evidence and after hearing the learned Authorised Representatives of the parties, this issue was found in favour of the petitioner by Shri B.L. Dalal, my learned predecessor — *vide* his order dated 22nd August, 1981

7. Later on, the following additional issues were settled for decision by me on 24th September, 1984 :—

1. Whether the claim of the workman is barred by time ? OPR.
2. Whether the workman is estopped from claiming back wages by his acts and conduct ? OPR.
3. Whether the workman remained gainfully employed after termination till reinstatement ? OPR.

8. Both the parties have alleged and there is evidence on record Comprised in Ex. MW2/2 that the workman has since been reinstated w.e.f. 2nd August, 1982. Both the parties were allowed to produce their evidence.

9. Learned Authorised Representatives of the parties heard.

10. At the very threshold, the learned Authorised Representatives of the parties agreed that since the workman has since been reinstated, issue of reinstatement does not survive for adjudication and that only question of back wages survives. So, I shall confine my discussion to this aspect of controversy only.

Issue No. 2 framed on 3rd April, 1979 need not be decided, because the workman has since been reinstated.

Additional issue No. 3 framed on 24th September, 1984

11. There is no evidence on behalf of the respondent on this issue that the workman ever remained gainfully employed after his termination and before his reinstatement.

12. Additional issues No.1 and 2 shall be taken up for discussion when the question of back wages shall be gone into.

13. On behalf of the respondent Shri Nagpal contended that the workman is not entitled to wages prior to the date of demand notice i.e. 23rd November, 1977. This he contended on the basis of law laid down in Lab. I.C. 1977 page 897 between Cox and Kings (Agents) Ltd. V/s. Their workmen and others. From this authority Shri Nagpal made a pointed reference to para No. 33 of the judgment. In this authority their Lordships observed that in the context of the circumstances of that case the Labour Court was not justified in awarding wages to the workman relating to the period prior to 25th October, 1972 i.e. the date on which the demand notice for reinstatement was served upon the management. Shri Nagpal seems to be tearing out of context the observation made by their Lordships. In that case the demand notice was raised by the workman some where in the year 1966. The reference was made by the Lt. Governor Delhi in the month of May 1967 to the Labour Court Delhi. The management took an objection before the Labour Court that since no demand notice has been served upon the management, no industrial dispute arises for adjudication. The plea of the management was accepted by the Court and the reference was held to be bad in law. Thereafter the workman raised *denovo* demand notice on 25th October, 1972 by serving copy of the same upon the management. The reference was made to the Court again by the competent authority on 2nd May, 1973 and in that situation their Lordships held that the workman was not entitled to wages prior to 25th October 1972. In the present case services of the workman were terminated on 8th April, 1975. He raised a demand notice as received with the order of reference on 23rd

November, 1977 i.e. less than three years of his termination. Delay for less than three years has not been viewed with dis-favour by the Courts. Another point raised on behalf of the management was that since the workman accepted reinstatement without any protest regarding back wages, he cannot be allowed to agitate the question of back wages at this stage. This contention was ably met by Shri S.S Gupta by citing 1977 (I) LLN 532 between Harbhajan Singh and others and Assistant Labour Commissioner (Central) Chandigarh and Others. Simply because the workman did not press his claim for back wages at the time when he was reinstated by the respondent—vide its order dated 30th July, 1982 (he actually resumed duties on 2nd August, 1982), the workman cannot be deprived from the benefits of back wages and so the workman is awarded back wages from the date of dismissal to the date of reinstatement i.e. 2nd August, 1982 with all benefits of previous service. The reference is answered and returned accordingly. There is no order as to cost.

Dated 12th September, 1985.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sirsa.

Endorsement No. 64-78/1460, dated 11th October, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sirsa.

The 24th October, 1985

No. 9/5/84-6Lab/8895.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of The Administrator, Municipality, Ambala Sadar, Ambala Cantt.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, NEAR D.C. OFFICE, AMBALA CITY

Reference No. 284 of 1984
(Old No. 19 of 1984)

SHRI KRISHAN LAL WORKMAN AND THE MANAGEMENT OF THE ADMINISTRATOR, MUNICIPALITY, AMBALA SADAR, AMBALA CANTT.

Present:—Shri Rajeshwar Nath for workman.
None for Respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute between Shri Krishan Lal, workman and the management of the Administrator, Municipality Ambala Sadar, Ambala Cantt. to Labour Court, Faridabad. The terms of the reference are as under :—

„Whether the termination of services of Shri Krishan Lal, workman was justified and in order ? If not, to what relief is he entitled to ?”

On constitution of Labour Court at Ambala the reference was received by transfer.

Shri Krishan Lal, workman through his statement of claim has averred that he was appointed as a Octroi Peon by the respondent. On receipt of appointment letter he joined on 28th May, 1983, thereafter, respondent terminated his services illegally, in a arbitrary manner against the principles of natural justice. It was also alleged that according to appointment letter at the time of terminating his services the management was required either to give one month notice or one month pay in lieu of notice period but none of these conditions which were in appointment letter were observed. Secondly, the junior person to him were retained in service—Due to that he is entitled to re-instatement with continuity in service with full back wages.

Respondent management contested this case and contended that the services of the petitioner/workman were correctly terminated because his behaviour and conduct was not found satisfactory. He was temporary employee, so there was no need of issuing of any notice or making payment of notice period. It was also contended that no junior to him was retained in service.

Workman Shri Krishan Lal filed replication through which he re-affirmed his case.

On the pleadings of the parties the following issues have been framed for just decision of the dispute in hand :

Issues :

1. Whether termination order dated 17th August, 1983 is justified if not, its effect ? QPM
2. Relief.

This case was fixed for final arguments for 1st October, 1985. Shri Rajeshwar Nath authorised representative of workman appeared while the respondent absented, so *ex parte* proceedings were taken up.

I have heard Shri Rajeshwar Nath authorised representative of workman and have gone through the evidence of both the parties available on the file. My issue-wise findings are as under :

Issue No. 1

In support of this issue Shri A.L. Kalra appeared for respondent as MW-1 and stated that workman was employed,—*vide* order dated 21st May, 1983 and his services were terminated,—*vide* an order dated 11th August, 1983. Copies of these orders are Ex-MW-I & M-2. He was relieved on 17th August, 1983. He also stated that the work and conduct of the workman was not found satisfactory which resulted in termination of his services. In cross examination this witness deposed that workman was attached with Sanitary Superintendent and in Sanitary Section. Shri A.L. Kalra admitted that at the time of passing termination order neither one month notice nor one month pay in lieu of notice period were given to the workman which was an pre-condition in the appointment letter itself he further stated that he cannot say whether certain juniors person to workman Krishan Lal are still in service or not.

Shri Krishan Lal workman appeared in the witness box as AW-I and supported his case on oath that he was illegally terminated from services by the respondent. Certain juniors person to him are in service. He also refuted that his work and conduct were unsatisfactory. He further deposed that his explanation was never called for by his superiors nor any warning etc were issued to him either orally or in writing.

In view of the above evidence lead by both the parties I would like to refer here appointment letter of workman issued by the management copy of same is Ex-M-I & M-2 which is on the file. It reads that if the services of workman are to be terminated in those circumstances either one month notice or one month pay shall have to be given to the workman if workman shall resigned of his own he shall have to give one month notice or shall have to deposit one month pay in lieu of notice period but in this case the termination order was passed by the Deputy Commissioner, Ambala without following the above pre-condition as per appointment letter so that violation of this condition which was in fact an contract between the parties at the time of appointment was totally ignored. I do not hesitate while remarking that the Deputy Commissioner, Ambala has acted in most arbitrary manner against the pre-requisite of the appointment letter. His order dated 17th August, 1983 regarding the termination of services of workman in un-just, illegal and has to be set-aside.

While reaching at this conclusion from the evidence available on the file I am fortified by the judicial pronouncement of our own Hon'ble High Court 1983-Vol-I-SLR-Page 280 titled Dina Nath Srivastva, Assistant Professor Vs Haryana Agriculture University, Hissar and others in which it was observed that one month notice or tender one month salary in lieu of notice was pre-requisite to the discharge of the workman, it was held that order of termination quashed and petitioner was allowed all reliefs. 1976-Vol-II-SLR-Page 135 was relied upon.

In 1983-Vol-I-SLR-Page 416 Bombay High Court in case Titled Textile Committee Vs. K.A. Mallani it was observed that termination of service of a temporary employee-termination forth-with without tendering/ payment of one month salary in lieu of notice simultaneously-order of termination is illegal.

Shri Rajeshwar Nath authorised representative of workman argued that certain juniors to Krishan Lal workman were retained in service but this plea is not tenable because as per statement of Shri Krishan Lal workman he joined service of respondent on 28th May, 1983 while Shri Ram Sarup also joined service on 28th May, 1983 and Tahir Singh joined on 27th May, 1983 and there is no evidence on the file when Shri Ram Kumar joined service of respondent.

In view of above discussions and case laws cited above it has become crystal clear that the Deputy Commissioner, Ambala while passing the termination order regarding the termination of services of Shri Krishan Lal workman clearly violated the pre-requisite of appointment letter, he neither issued a notice of expressing his intention to terminate services of workman nor got paid one month salary in lieu of notice so his order is basically illegal, hence it is set-aside. This issue is decided in the negative.

Issue No. II

From the foregoing reasons and on the basis of my findings on issue No. 1, I order the reinstatement of Shri Krishan Lal, workman with continuity in service with full back wages. I pass my award regarding the dispute in question accordingly.

V. P. CHAUDHARY,

Dated the 3rd October, 1985.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2441, dated the 7th October, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,

Secretary to Government, Haryana,
Labour and Employment Department.

PUBLIC WORKS DEPARTMENT
BUILDINGS AND ROADS BRANCH
(CHANDIGARH CIRCLE)

The 19th November, 1985

No. SE./P.W.D./B. & R./Chandigarh 508/R.—Whereas it appears to the Governor of Haryana that land is likely to be taken by the Government, at public expenses, for a public purpose, namely, for constructing a road from Pinjore-Nalagarh Road to Village Dhamala in district Ambala, it is hereby notified that the land described in the specification below, is required for the above purpose.

This notification is made under the provisions of Section IV of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana, is pleased to authorise the officers, for the time being engaged in the undertaking with their servants and workman to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested in the above land who has any objection to the acquisition of any land in the locality may within 30 days of the publication of this notification, file an objection in writing before the District Revenue Officer-cum-Land Acquisition Collector, B. & R. Branch, Ambala.

SPECIFICATION

District	Tehsil	Locality/ Village	Hadbast No.	Area in acres	Khasra Nos.									
Ambala	Kalka	Dhamlu	122	1.56	507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 533, 534, 535, 536, 959, 958, 957, 956, 955, 954, 953, 952, 951, 950, 949, 948, 947, 944, 946, 945, 940, 911, 912, 913, 914.									

No. SE/PWD/B&R/Chandigarh 511/R.—Whereas it appears to the Governor of Haryana that land is likely to be taken by the Government, at public expenses, for a public purpose, namely, for a road from Jagadhri-Ambala road to Shiv Mandir Bhatauli, in district Ambala, it is hereby notified that the land described in the specification below, is required for the above purpose.

This notification is made under the provisions of section IV of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana is pleased to authorise the officers, for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, in the above land, who has any objection to the acquisition of any land in the locality, may within 30 days of the publication of this notification, file an objection in writing before the District Revenue Officer-cum-Land Acquisition Collector, Ambala.

SPECIFICATION

District	Tehsil	Locality/ Village	Hadbast No.	Area in Acres	Khasra Nos.
Ambala	Jagadhri	Bhatauli	405	0.33	17 6/1 = 6/2, 15/1, 15/2 = 16/1, 16/2, 17-24. 18 29 1-10 4-7
Do	Do	Khera	423	1.08	215, 216, 225, 226, 233, 234, 261, 262, 263.
Total				1.41	

(Sd.)

Superintending Engineer,
Chandigarh Circle. Hr. P.W.D.,
B. & R. Branch, Chandigarh.